

**EIGHTY-FOURTH GENERAL ASSEMBLY
2012 REGULAR SESSION
DAILY
HOUSE CLIP SHEET**

APRIL 25, 2012

SENATE FILE 2315

H-8506

1 Amend the amendment, H-8413, to Senate File 2315,
2 as amended, passed, and reprinted by the Senate, as
3 follows:
4 1. Page 8, after line 10 by inserting:
5 <____. Page 21, after line 27 by inserting:
6 <Sec. _____. DISPUTED BILLINGS.
7 1. To the extent allowable under federal law or
8 regulation, if the costs of a service are payable in
9 whole or in part by a county in accordance with a
10 chapter of the Code listed in this section, the service
11 was rendered prior to July 1, 2011, and the county that
12 would be obligated to pay for the costs of the service
13 has not been billed for the service or has disputed the
14 billing prior to the effective date of this section, or
15 the state has fully charged off the cost of the service
16 or has not provided information to appropriately
17 document the basis for the billing, the county shall
18 have no obligation to pay for the service.
19 2. This section is applicable to service costs that
20 are a county obligation for services provided under any
21 of the following chapters of the Code:
22 a. Chapter 221.
23 b. Chapter 222.
24 c. Chapter 230.
25 d. Chapter 233B.
26 e. Chapter 249A.
27 f. Chapter 812.>>
28 2. Page 12, after line 15 by inserting:
29 <____. Page 34, after line 27 by inserting:
30 <5. a. The dispute resolution process implemented
31 in accordance with this subsection applies to
32 billing disputes between the state and a county
33 or region, other than residency disputes or other
34 dispute processes under this section, involving the
35 responsibility for service costs under any of the
36 following:
37 (1) Chapter 221.
38 (2) Chapter 222.
39 (3) Chapter 230.
40 (4) Chapter 249A.
41 (5) Chapter 812.
42 b. If a county, region, or the department, as
43 applicable, disputes a billing for service costs listed
44 in paragraph "a", the dispute shall be resolved as
45 provided in this subsection. The county or region
46 shall notify the department of the county's or region's
47 assertion within ninety days of receiving the billing.
48 If the department disputes such a billing of a regional
49 administrator, the department shall notify the affected
50 counties or regions of the department's assertion.

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1 c. The department, county, or region that received
2 the notification, as applicable, shall respond to the
3 party that provided the notification within forty-five
4 days of receiving the notification. If the parties
5 cannot agree to a settlement as to the dispute within
6 ninety days of the date of notification, on motion of
7 any of the parties, the matter shall be referred to the
8 department of inspections and appeals for a contested
9 case hearing under chapter 17A before an administrative
10 law judge assigned in accordance with section 10A.801
11 to determine facts and issue a decision to resolve the
12 dispute.

13 d. (1) The administrative law judge's decision
14 is a final agency action, notwithstanding contrary
15 provisions of section 17A.15. The party that does
16 not prevail in the decision or subsequent judicial
17 review is liable for costs associated with the
18 proceeding, including reimbursement of the department
19 of inspections and appeals' actual costs associated
20 with the administrative proceeding. Judicial review of
21 the decision may be sought in accordance with section
22 17A.19.

23 (2) If following the decision regarding a dispute
24 in accordance with this subsection, additional
25 evidence becomes available that merits a change in that
26 decision, the parties affected may change the decision
27 by mutual agreement. Otherwise, a party may move that
28 the matter be reconsidered by the department, county,
29 or region, or by the administrative law judge.

30 e. (1) Unless a petition is filed for judicial
31 review, the administrative law judge's decision
32 regarding a disputed billing shall result in one of the
33 following:

34 (a) If a county or region is determined to be
35 responsible for the disputed amounts, the county or
36 region shall pay the amounts due and shall reimburse
37 any other amounts paid for services provided by
38 the other county or region or the department on the
39 person's behalf prior to the decision.

40 (b) If it is determined that the state is
41 responsible for the disputed amounts, the state shall
42 pay the amounts due and shall reimburse the county or
43 region, as applicable, for any payment made on behalf
44 of the person prior to the decision.

45 (2) The payment or reimbursement shall be remitted
46 within forty-five days of the date the decision was
47 issued. After the forty-five-day period, a penalty of
48 not greater than one percent per month may be added to
49 the amount due.>>

50 3. By renumbering as necessary.

By SCHULTE of Linn

SENATE FILE 2338

H-8507

1 Amend Senate File 2338, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 4, after line 28 by inserting:

4 <DIVISION _____

5 PERFORMANCE-BASED EFFICIENCY CONTRACTS

6 Sec. _____. NEW SECTION. 8B.1 Legislative intent.

7 The general assembly finds that investment in
8 energy conservation measures by public facilities
9 can reduce the amount of energy and other resources
10 consumed by the facilities; reduce ongoing operational
11 costs; improve comfort, reliability, and the indoor
12 environment for employees and citizens; produce a
13 positive environmental impact; enhance revenues
14 generated by governmental units; and create local jobs,
15 producing both immediate and long-term cost savings
16 and other benefits. It is the policy of this state to
17 encourage state agencies, departments, and divisions;
18 public health facilities; public universities and
19 community colleges, school districts, and area
20 education agencies; and counties, municipalities,
21 and other political subdivisions to implement energy
22 conservation and facility improvement measures
23 that reduce energy, water, wastewater, or any other
24 utility or operating costs, and, when economically
25 feasible, build, operate, maintain, or renovate public
26 facilities and systems in a manner that will minimize
27 operational costs and maximize utility savings and
28 other efficiencies. It is additionally the policy of
29 this state to encourage reinvestment of the savings and
30 revenues resulting from energy conservation measures
31 into additional and continued energy conservation
32 efforts through performance-based efficiency contracts
33 and other measures deemed appropriate by a governmental
34 unit.

35 Sec. _____. NEW SECTION. 8B.2 Definitions.

36 As used in this chapter, unless the context
37 otherwise requires:

38 1. "Department" means the department of
39 administrative services.

40 2. "Energy conservation measure" or "facility
41 improvement measure" means a program, facility
42 alteration, equipment installation, remodeling of a
43 new or existing building, or technology upgrade, which
44 is designed to reduce energy, water, wastewater, or
45 other utility or operating costs, or enhance billable
46 revenue, including but not limited to the following:

47 a. Employee training and occupant behavior
48 modification programs.

49 b. Insulation of building structures and systems
50 within buildings.

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- 1 c. Windows and window systems, roofs and
- 2 roofing materials, caulking or weather stripping,
- 3 installation or modification of doors, heat-absorbing
- 4 or heat-reflecting applications, or other modifications
- 5 to windows, doors, or the building envelope, that
- 6 reduce energy and operating costs.
- 7 d. Automated or computerized energy or facility
- 8 control systems.
- 9 e. Heating, ventilation, and air-conditioning
- 10 systems, including specialty systems serving food
- 11 service, laboratory, and other applications.
- 12 f. Lighting systems and fixtures, including
- 13 daylighting systems.
- 14 g. Energy recovery systems.
- 15 h. Systems that produce steam or forms of energy
- 16 such as heat in addition to electricity.
- 17 i. Renewable energy systems or other distributed
- 18 power generation systems.
- 19 j. Water and wastewater fixtures, appliances, and
- 20 equipment.
- 21 k. Improvements to water distribution, sewer, and
- 22 wastewater treatment facilities.
- 23 l. Landscaping measures that reduce watering
- 24 demands and capture and hold applied water and
- 25 rainfall.
- 26 m. Metering or related equipment or systems
- 27 that improve the accuracy or efficiency of billable
- 28 revenue-generating systems.
- 29 n. Automated, electronic, or remotely controlled
- 30 technologies, systems, or measures that reduce
- 31 operating costs.
- 32 o. Installation and modification of software-based
- 33 systems that reduce facility management or other
- 34 facility operating costs.
- 35 p. Programs to reduce energy costs through rate
- 36 adjustments, load shifting to reduce peak demand, or
- 37 use of alternative energy suppliers, including but not
- 38 limited to demand response programs, changes to more
- 39 favorable rate schedules, negotiation of lower rates
- 40 or new suppliers, or auditing of utility billing and
- 41 metering.
- 42 q. Energy information and control systems that
- 43 monitor consumption, redirect systems to optimal energy
- 44 sources, and manage energy-using equipment.
- 45 r. Any measure not otherwise described in this
- 46 chapter that is designed to produce utility consumption
- 47 or operational cost savings, revenue enhancements, or
- 48 similar efficiency gains to a governmental unit.
- 49 3. "Governmental unit" means any authority,
- 50 board, bureau, commission, department, agency, or

1 institution of a government agency, including but
2 not limited to any state agency, or any county,
3 city, district, municipal corporation, municipality,
4 municipal authority, political subdivision, school
5 district, educational institution, incorporated town,
6 township, other incorporated district, or other public
7 instrumentality which has the authority to contract for
8 the construction, reconstruction, alteration, or repair
9 of any public building or other public work or public
10 improvement.

11 4. "Performance-based efficiency contract" means a
12 contract between a governmental unit and a qualified
13 provider for the evaluation and recommendation of
14 energy conservation or facility improvement measures
15 and for implementation of one or more such measures.

16 5. "Qualified provider" means a person with a
17 record of documented performance-based efficiency
18 contract projects who is experienced in the design,
19 implementation, and installation of energy conservation
20 or facility-improvement measures; and has the
21 technical capabilities to verify that such measures
22 generate energy and operational cost savings or
23 enhanced revenues. A "qualified provider" provides
24 a governmental unit with the following information
25 and services in connection with a performance-based
26 efficiency contract:

- 27 a. Project design and specifications.
- 28 b. Construction and construction management.
- 29 c. Commissioning.
- 30 d. Ongoing services as required.
- 31 e. Measurement, verification, and guarantee
- 32 of savings from energy conservation or
- 33 facility-improvement measures.

34 Sec. _____. NEW SECTION. 8B.3 Selection of qualified
35 provider ---- award of performance-based contract ----
36 contracting procedures and provisions ---- funding.

37 1. A governmental unit may enter into a
38 performance-based efficiency contract with a
39 qualified provider in accordance with the provisions
40 of this chapter. The department shall issue a
41 request for proposals to screen and prequalify
42 prospective qualified providers wishing to enter
43 into performance-based efficiency contracts with
44 governmental units. The request for proposals shall
45 include but not be limited to qualified provider
46 documentation of provider expertise and credentials,
47 past experience with performance-based efficiency
48 contracts with governmental units, identification
49 of financial partners, if any, associated with
50 the qualified provider, and the ability to provide

1 and fulfill performance guarantees. Based on the
2 request for proposals, the department shall develop
3 and maintain a list of prequalified qualified
4 providers. A governmental unit seeking to enter into a
5 performance-based efficiency contract with a qualified
6 provider shall either select a qualified provider from
7 the list developed by the department, or shall limit
8 the issuance of a request for proposals to qualified
9 providers contained on the list.

10 2. A governmental unit may select a qualified
11 provider under the procedures specified in subsection
12 1 that best meets the needs of the governmental
13 unit in accordance with criteria established by the
14 governmental unit. After reviewing the qualifications
15 of one or more qualified providers, a governmental
16 unit may enter into a performance-based efficiency
17 contract with a qualified provider if it finds that
18 the amount the governmental unit would spend on the
19 energy conservation and facility-improvement measures
20 recommended in the proposal would not exceed the
21 amount of energy and operational cost savings or
22 revenue enhancements derived from the measures within a
23 twenty-year period from the date of installation.

24 3. A qualified provider to whom a performance-based
25 efficiency contract is awarded shall provide a one
26 hundred percent performance bond to the governmental
27 unit to assure the provider's faithful and complete
28 performance of the contract.

29 4. A performance-based efficiency contract
30 shall include a written guarantee by the qualified
31 provider that the savings and efficiency gains, in the
32 aggregate, will meet or exceed the cost of the energy
33 conservation or facility improvement measures to be
34 implemented under the contract. The qualified provider
35 shall be responsible, pursuant to the performance-based
36 efficiency contract, for measuring and verifying the
37 guaranteed savings and efficiency gains provided by the
38 implemented measures by using one of the measurement
39 and verification methodologies set forth in the
40 international performance measurement and verification
41 protocol. If, due to existing data limitations or the
42 nonconformance of specific project characteristics,
43 none of the methods listed in the international
44 performance measurement and verification protocol
45 is sufficient for measuring guaranteed savings and
46 efficiency gains, the qualified provider shall develop
47 and document an alternate method that is compatible
48 with the protocol.

49 5. An improvement that is not essential or causally
50 connected to an energy conservation measure may be

1 included in a performance-based efficiency contract
2 only to the extent that such expenditures do not,
3 in the aggregate, require the governmental unit to
4 contract for the improvements in a manner other than
5 that specified in the contract.

6 6. A facility alteration which includes
7 expenditures that are required to properly implement
8 other energy conservation measures may be included as
9 part of a performance-based efficiency contract. In
10 such a case, notwithstanding any other provision of
11 law, the installation of these additional measures may
12 be supervised by the qualified provider.

13 7. A governmental unit may enter into an
14 installment payment or lease-purchase agreement to
15 finance costs associated with the performance-based
16 efficiency contract. The qualified provider shall
17 either provide financing directly for the installment
18 payment or lease-purchase agreement or arrange
19 third-party financing. A contract shall provide for
20 all costs to be repaid in full within fifteen years
21 following the date the contract was entered into,
22 subject to extensions of up to five additional years
23 if projected savings sufficient to achieve project
24 repayment do not materialize during the fifteen-year
25 period following the date the contract was entered
26 into. The qualified provider or financing entity
27 shall be responsible for any costs not fully recovered
28 after twenty years. A governmental unit shall use
29 only documented energy savings as identified in
30 the performance-based efficiency contract for the
31 purpose of making installment or lease-purchase
32 payments pursuant to the contract, together with
33 energy efficiency rebates supplied or provided by a
34 public utility, if applicable. If energy savings and
35 rebates are insufficient to fully fund installment
36 or lease-purchase payments, the qualified provider
37 or financing entity shall carry forward the excess
38 to future years. A public utility shall provide all
39 necessary support to facilitate a performance-based
40 efficiency contract, including but not limited to
41 energy use and costs to disclosure to a qualified
42 provider selected by the governmental unit and a
43 financing entity, if applicable.

44 8. Any amount of the performance-based efficiency
45 contract or installment payment or lease-purchase
46 agreements costs that is guaranteed by the qualified
47 provider shall be excluded from any limits or
48 requirements imposed by sections 297.36, 331.402, and
49 384.24A.

50 9. A governmental unit entering into a

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1 performance-based efficiency contract shall submit
2 a report to the department by January 1, annually,
3 regarding progress pursuant to the contract, results
4 received, and containing any additional information as
5 specified by the department.>

6 2. By renumbering as necessary.

By ISENHART of Dubuque

H-8507 FILED APRIL 24, 2012

SENATE FILE 2338

H-8508

1 Amend Senate File 2338, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 4, after line 28 by inserting:
4 <DIVISION ____
5 ENERGY EFFICIENCY
6 Sec. ____ DEPARTMENT OF ADMINISTRATIVE SERVICES ----
7 ENERGY EFFICIENCY EFFORTS.
8 1. The department of administrative services shall
9 require, beginning July 1, 2012, that all passenger
10 cars purchased or leased by the state shall have a
11 United States environmental protection agency estimated
12 highway-mileage rating of at least thirty-five miles
13 per gallon.
14 2. The department of administrative services
15 shall report to the general assembly and governor by
16 November 15, 2012, regarding the feasibility of giving
17 preference to or requiring the purchase or lease of
18 electric and natural-gas powered vehicles with a United
19 States environmental protection agency estimated
20 highway-mileage rating of at least forty-five miles per
21 gallon.
22 3. Funds appropriated to a state agency for utility
23 expenses shall not be transferred or reallocated, and
24 any such unexpended funds at the end of a fiscal year
25 shall not revert to the general fund of the state but
26 shall be allocated to the Iowa energy bank revolving
27 loan fund, to be used exclusively to finance energy
28 improvements to state-owned properties.
29 4. The department of administrative services shall
30 require that the procurement of any product by a state
31 agency conform to energy star specifications current
32 at the time of contract or purchase if the product is
33 subject to energy star labeling.
34 5. The department of administrative services shall
35 provide for least-cost lighting of state buildings
36 and property under its control, and shall work with
37 other state departments and agencies responsible for
38 the energy costs of buildings and property under their
39 control to do the same, based on minimizing energy use
40 and the life-cycle costs of the energy technology.
41 6. The department of administrative services
42 shall establish a program with other state agencies
43 to replace or deploy battery chargers and other smart
44 power technology that turns off the power source to the
45 adapter or battery once the battery is charged or cuts
46 power to unused electrical devices.
47 Sec. ____ EFFECTIVE UPON ENACTMENT. This division
48 of this Act, being deemed of immediate importance,
49 takes effect upon enactment.>
50 2. By renumbering as necessary.

By ISENHART of Dubuque

H-8508 FILED APRIL 24, 2012

Fiscal Note

Fiscal Services Division



HF 2454 – Innovation Fund Tax Credits (LSB 6027HZ.1)

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Fiscal Note Version – New

Description

House File 2454 modifies the current tax credit for qualified equity investments in the Iowa Innovation Fund by removing the requirement that the tax credit equal to 20.0% of the investment. The Bill also makes the tax credits transferable. Under current law, and under the Bill, annual tax credits are limited to a total of \$8.0 million and the tax credits may not be redeemed until the third year after the qualifying investment is made. The Bill is effective on enactment and retroactive to January 1, 2012.

Background

The Innovation Fund was created in **SF 517** (Economic Development Appropriations Act) during the 2011 Legislative Session. The Innovation Fund is one or more early-stage capital funds certified by the Iowa Economic Development Authority (IEDA) Board. The 20.0% tax credit for equity investments in the Innovation Fund was also created in SF 517.

The tax credit cannot be redeemed until the third tax year after the tax year in which the qualified investment was made. Under current law, the tax credits are not refundable or transferrable, but unused credits may be carried forward for up to five additional tax years.

The IEDA is required to allocate \$8.0 million of its annual \$120.0 million tax credit cap to the Innovation Fund, starting in FY 2012 (see **Iowa Code section 15.119**). The IEDA cannot allocate unused Innovation Fund credits to other programs that also exist under the \$120.0 million cap.

Taxpayers that invest in the Innovation Fund likely receive equity interest in the Fund. Under the provisions of the Bill, they will also receive a State income tax credit equal to 100.0% of their investment, but the credit cannot be redeemed for at least three years. Taxpayers may also face higher federal tax bills if the State income tax reduction they earn through the investment tax credit increases their federal tax liability. State income taxes are deductible at the federal level for itemized individual income tax filers and are business deductions for businesses; both instances potentially increase federal income taxes owed.

At the current 20.0% tax credit rate, the Innovation Fund could generate \$40.0 million per year if the \$8.0 million tax credit was fully utilized. If the tax credit is increased to 100.0%, the annual tax credit limit would net \$8.0 million in Innovation Fund investments each year.

The IEDA rules for the Innovation Fund tax credit specify that if valid applications for more than the \$8.0 million available in a year are received, the Department will prioritize tax credit awards in the next year so that the excess applications receive tax credits first.

Fiscal Impact

The current 20.0% tax credit has been in place for eight months. Over that time, it does not appear that much progress has been made in attracting investment or creating an Innovation Fund. Therefore, it is not possible to assess whether the current \$8.0 million allocation with a 20.0% tax credit for Innovation Fund investments will be utilized in part or in whole, during FY 2012 or after, although the possibility exists that the program will not be utilized unless that tax credit is enhanced.

Increasing the existing tax credit from 20.0% of the amount invested to 100.0% will no doubt make the investment more attractive and will therefore make it more likely that the \$8.0 million annual cap will be utilized. However, at this early stage of the new program, it is not possible to conclude the existing Innovation Fund concept will not work, so the increase in the tax credit percentage from 20.0% to 100.0% does not have a fiscal impact.

The changes in the Bill will allow investment tax credits of any percentage up to 100.0%. At 100.0%, the tax credit percentage change would mean that the annual \$8.0 million State General Fund investment in financing the Innovation Fund will yield \$8.0 million per year for the Fund, down from the \$40.0 million per year that could possibly be achieved under current law.

The provision making the tax credits transferable creates a potential fiscal impact in future fiscal years. Tax credits that are not transferable and not refundable require the initial tax credit holder to have sufficient state income tax liability over the allowed redemption time frame, to benefit fully from the tax credit. So it is possible that without transferability, some investors may not be able to fully redeem all tax credits acquired. Once a tax credit becomes transferrable or refundable, it can be assumed that all tax credits from that program will be redeemed within the allowed redemption period.

If it is assumed that 10.0% of the tax credits issued under the program will never be redeemed due to the lack of refundability or transferability, then the maximum annual fiscal impact of this provision is \$800,000 per year. Because credits acquired through this program cannot be redeemed for three tax years after the investment is made, any impact associated with making the credits transferable will not occur until at least FY 2015.

Source

Iowa Economic Development Authority

/s/ Holly M. Lyons

April 24, 2012

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#). Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
